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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,811	11/10/2003	Satoshi Mizutani	20050/0200482-US0	5411
7278	7590	02/22/2006	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/705,811	MIZUTANI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Melanie J. Hand	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/2/04</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. JP 2001-152403, filed on May 22, 2001.

### ***Information Disclosure Statements***

The information disclosure statements (IDS) submitted on April 8, 2004, June 10, 2004, July 8, 2004, and December 3, 2004 were each filed after the mailing date of the Application on November 10, 2003. The submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the parallel and vertical directions must be defined in the disclosure must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures

must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Claim Objections***

Claim 12 is objected to because of the following informalities: the phrase "between said parallel direction" is unclear and appears to be a typographical error. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The parallel direction defined by applicant in the disclosure appears to collectively refer to the longitudinal and transverse directions, or in terms of traditional definitions, the "x" and "y" directions. This does not sufficiently describe the invention as the bending elements set forth by applicant are distinguished from one another based on whether they extend in the parallel direction or the vertical direction, and one of ordinary skill in the art would thus not be

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able to make or use the bending elements and thus would not be able to make or use the article as described and intended by applicant.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Buell (U.S. Patent No. 5,197,959).

With respect to **Claims 1,4-6,17**: Buell teaches an absorbent article 10 comprising deformation element 20 and absorbent means 39 that is capable of being pinched by the user's thighs and held adjacent to, or partially within, the labia. (Col. 3, lines 23-25, Col. 5, lines 53-55) Buell teaches topsheet 45 and a backsheet defining the body-facing and garment-facing surfaces of absorbent body 39. Buell teaches flexure hinges 23A,B,C extending in a longitudinal direction substantially parallel to a longitudinal axis of article 10 and having a predetermined length and width that facilitate the bending of deformation element 20 into a convex upward configuration. The flexure hinges create a differential bending resistance along a transverse cross-section of the article, the bending resistance being less at the sites of the hinges.

With respect to **Claims 2,3,7,11-13**: Buell teaches linear central hinge 23A that facilitates a "W" bending configuration (Fig. 16) (Col. 17, lines 15-20), the central portion of which hinge

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constitutes a bending element piece that has a dimension extending parallel to a vertical direction and a second dimension that extends parallel to the longitudinal axis of said article and crosses a transverse centerline. The "W" folding configuration is achieved by applying force to article 10 and bending flexural hinges 23A and 23B, thus defining a central bending element that extends in the vertical direction at an angle toward sides 31.

With respect to **Claim 8,10**: Buell teaches that hinges 23B are curvilinear, are located between the longitudinal centerline of article 10 and the edges 31 and extend substantially the entire length of the article and also extend to the side edges 31. (Col. 13, lines 38-42, 53-55)

With respect to **Claim 9**: Buell teaches protuberance hinges 23C that cross central hinge 23A and thus the longitudinal centerline of the article. (Fig. 6) (Col. 13, lines 40-42)

With respect to **Claim 14**: Buell teaches that article 10 can be an interlabial pad. (Col. 5, lines 46-48) As can best be seen from Figs. 11 and 18-20, Buell teaches a slot that is capable of receiving a user's finger to apply the article as an interlabial pad.

With respect to **Claims 15,16**: An interlabial pad by its nature is capable of functioning as an absorbent article for incontinence and as sanitary napkin, therefore Buell teaches an incontinence pad for urine and a sanitary napkin.

With respect to **Claim 18**: Please see the rejection of claim 1 in addition to the following:

Because Buell teaches varying bending configurations, a user is able to adjust the flexibility and form of article 10.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

